

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

In re:

USA GYMNASTICS,

Debtor.

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Chapter 11

Case No. 18-09108-RLM-11

**LIBERTY INSURANCE UNDERWRITERS INC.'S
DESIGNATION OF THE RECORD AND
STATEMENT OF ISSUES ON APPEAL**

Liberty Insurance Underwriters Inc. ("LIU"), appellant, in accordance with Rule 8009 of the Federal Rules of Bankruptcy Procedures, files this designation of record and statement of issues with respect to its Notice of Appeal (ECF 1780) from the Court's Findings of Fact, Conclusions of Law, and Order Confirming the Modified Third Amended Joint Chapter 11 Plan of Reorganization Proposed by USA Gymnastics and the Additional Tort Claimants Committee of Sexual Abuse Survivors, entered December 16, 2021 (ECF 1776), which has been docketed in the District Court as No. 1:21-cv-03065-TWP-DLP.

Designation of the Record on Appeal

The Appellant designates the following items to be included in the record on appeal:

1. Third Amended Joint Chapter 11 Plan of Reorganization Proposed by USA Gymnastics and the Additional Tort Claimants Committee of Sexual Abuse Survivors, filed October 25, 2021 (ECF 1655)
2. Limited Objection of Liberty Insurance Underwriters Inc. to Confirmation of Third Amended Joint Chapter 11 Plan of Reorganization Proposed by USA

Gymnastics and the Additional Tort Claimants Committee of Sexual Abuse Survivors, filed December 3, 2021 (ECF 1735).

3. Objection of TIG Insurance Company to Third Amended Joint Chapter 11 Plan of Reorganization Proposed by USA Gymnastics and the Additional Tort Claimants Committee of Sexual Abuse Survivors, filed December 3, 2021 (ECF 1736).

4. Debtor's Memorandum of Law in Support of Confirmation of the Third Amended Joint Chapter 11 Plan of Reorganization Proposed by USA Gymnastics and the Additional Tort Claimants Committee of Sexual Abuse Survivors and Omnibus Reply to Confirmation Objections, filed December 10, 2021 (ECF 1751).

5. Transcript of Confirmation Hearing, held on December 13, 2021 (ECF 1790).

6. Modified Third Amended Joint Chapter 11 Plan of Reorganization Proposed by USA Gymnastics and the Additional Tort Claimants Committee of Sexual Abuse Survivors, filed December 13, 2021 (ECF 1764).

7. Notice of Filing of Modified Third Amended Joint Plan of Reorganization (ECF 1765).

8. Findings of Fact, Conclusions of Law, and Order Confirming the Modified Third Amended Joint Chapter 11 Plan of Reorganization Proposed by USA Gymnastics and the Additional Tort Claimants Committee of Sexual Abuse Survivors, entered December 16, 2021 (ECF 1776).

9. Complaint for Breach of Insurance Policy and Declaratory Judgment of Coverage, filed February 1, 2019, *USA Gymnastics v. ACE American Insurance Company*, Southern District of Indiana, Case No. 19-50012 (Adv. Proc. ECF 1).

10. Bankruptcy Court's Proposed Findings and Conclusions with Respect to USAG's Motion for Partial Summary Judgment and LIU's Cross-Motion for Summary Judgment, entered October 24, 2019 (Adv. Proc. No. 1:19-ap-50012 ECF 260).

11. Bankruptcy Court's Proposed Findings and Conclusions with Respect to USAG's Motion to Enter Money Judgment and to Enforce Order, entered September 29, 2020 (Adv. Proc. No. 1:19-ap-50012 ECF 496).

Statement of Issues to be Presented

1. Where the bankruptcy court confirms a plan of reorganization under which an insurance policy reverts in the reorganized debtor and will not be used to pay tort claimants, and the tort claimants are paid exclusively from other sources, may the bankruptcy court retain subject-matter jurisdiction over a coverage action involving the policy after the confirmed plan takes effect?

2. Where a plan of reorganization limits an insurer's rights under its policy by, *inter alia*, barring the insurer from asserting contract defenses under the insurance policy issued by the insurer based on the plan or the order confirming it, and providing that the insurer's rights are in all respects subject to the plan and its provisions, may the

bankruptcy court confirm the plan even though it impairs the insurer's rights under the contract and law?

Respectfully submitted,

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Dated: December 22, 2021

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